

Filed 7/22/19 In re S.L. CA2/3

Opinion following rehearing

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

In re S.L., Jr., a Person Coming Under
the Juvenile Court Law.

DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

S.L.,

Defendant and Appellant.

B293623

(Los Angeles County
Super. Ct. No. DK14221)

APPEAL from an order of the Superior Court of
Los Angeles County, Michael E. Whitaker, Judge. Conditionally
affirmed with directions.

Elizabeth Klippi, under appointment by the Court of
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, and Sarah Vesecky,
Deputy County Counsel for Plaintiff and Respondent.

S.L. (father) has appealed an order of the juvenile court granting legal guardianship of his son, S.L., Jr., to a non-related extended family member. (Welf. & Inst. Code, § 366.26.) Father's sole contention on appeal is that the Los Angeles County Department of Children and Family Services (DCFS) failed to adequately comply with the inquiry and notice provisions of the Indian Child Welfare Act (ICWA) (25 U.S.C. § 1901 et seq.). Father therefore seeks reversal of the juvenile court's October 2018 order placing S.L., Jr. in a legal guardianship.

DCFS has conceded that it did not conduct an adequate inquiry of S.L., Jr.'s possible Indian ancestry, and thus that the case must be remanded to the juvenile court for further ICWA inquiry and notice. DCFS urges, however, that this court should not reverse the guardianship order, but instead should affirm with directions.

On the present record, we conclude that the proper disposition is to conditionally affirm the guardianship order. (See *In re Elizabeth M.* (2018) 19 Cal.App.5th 768, 788 [conditionally affirming Welfare and Institutions Code section 366.26 order and remanding to the juvenile court for compliance with ICWA]; *In re Michael V.* (2016) 3 Cal.App.5th 225, 236 [same].) Accordingly, we conditionally affirm the order and remand with directions to the the juvenile court to direct DCFS to comply with the inquiry and notice provisions of ICWA and related California law, including, without limitation, to conduct a meaningful inquiry into mother's claim of Indian ancestry, to conduct an investigation of father's possible Indian ancestry, and to send corrected ICWA notices that include the missing information identified in father's opening brief. Additionally, if DCFS's investigation produces any additional information

substantiating a parent's claim of Indian ancestry, appropriate notice must be provided to any tribe that is identified or, if the tribe cannot be determined, to the Bureau of Indian Affairs. DCFS thereafter is to notify the juvenile court of its actions and file certified mail return receipts for any ICWA notices sent, together with any responses received. The court shall then determine whether the ICWA inquiry and notice requirements have been satisfied and whether S.L., Jr. is an Indian child. If the court finds S.L., Jr. is an Indian child, it shall conduct a new hearing pursuant to Welfare and Institutions Code section 366.26, as well as all further proceedings, in compliance with ICWA and related California law. If not, the court's original order remains in effect.

DISPOSITION

The guardianship order of the juvenile court is conditionally affirmed. The matter is remanded to the juvenile court for compliance with the inquiry and notice provisions of ICWA and related California law as specifically directed herein.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

EDMON, P. J.

We concur:

LAVIN, J.

EGERTON, J.